HOUSE BILL NO. 33

AN ACT TO AMEND SECTIONS 65-1-59 AND 65-1-75, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THOSE HIGHWAYS OR PORTIONS OF HIGHWAYS WITHIN A COUNTY OR MUNICIPALITY THAT EITHER BEFORE OR AFTER JULY 1, 2002, WERE OR ARE ON THE STATE HIGHWAY SYSTEM AND UNDER THE JURISDICTION OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION FOR CONSTRUCTION AND MAINTENANCE BUT WHICH HAVE BEEN OR ARE RELOCATED, REPLACED OR BYPASSED IN CONSTRUCTION OF THE FOUR-LANE HIGHWAY PROGRAM SHALL BE ON THE DESIGNATED STATE HIGHWAY SYSTEM AND SHALL BE UNDER THE JURISDICTION OF THE MISSISSIPPI TRANSPORTATION COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 65-1-59, Mississippi Code of 1972, is amended as follows:

65-1-59. (1) It shall be the duty of the Mississippi Transportation Commission to have the Mississippi Transportation Department carry out all contracts and agreements, including federal-aid projects and agreements under the County Highway Aid Law of 1946, being Sections 65-11-1 through 65-11-37, heretofore made or entered into with any county, subject, however, to applicable rules and regulations of the Federal Highway Administration. It shall be the duty of the Transportation Commission to continue to have the Mississippi Transportation Department maintain all state highways now under maintenance or hereafter taken over for maintenance, the purpose of this provision being to preserve the status quo of all state highways insofar as such highways have been taken over and control and jurisdiction has been assumed by the Mississippi Transportation Commission and Mississippi Transportation Department; however, except as otherwise provided in this section, if any highway or link of highway is removed from the state highway system by
legislative act or by relocation or reconstruction, it shall no longer be maintained by or be under the jurisdiction of the Mississippi Transportation Commission or Mississippi Transportation Department, but shall be returned to the jurisdiction of the board of supervisors of the county or governing authorities of the municipality through which such road runs. Except as to segments of highways shorter than three (3) miles which have been or which are hereafter replaced through curve straightening or minor realignment, the Transportation Commission shall retain and have the Mississippi Transportation Department maintain as state highways all portions of U.S. highways that either before or after July 1, 1989, have been or are replaced and constructed as a part of the interstate highway system, or four-lane primary system, or which are replaced and constructed or are designated to be replaced and constructed as part of the highway system under Section 65-3-97, including portions of all such highways so replaced, or which under Section 65-3-97 are designated to be replaced, by municipal bypasses; and such highways and portions thereof shall be continued to be maintained as a part of the Mississippi state highway system until removed from such system by legislative act. All such highways and portions thereof which, by virtue of the provisions of this section, are returned on or after July 1, 1989, to the jurisdiction of the Mississippi Transportation Commission shall be maintained by the Mississippi Transportation Department only to the traffic capacities existing at the time that they are returned and any subsequent traffic capacity improvements or other improvements desired by the county or municipality within which such highway or portion thereof is located shall be performed in accordance with highway standards approved by the Transportation Commission and the expenses for making such improvements shall be paid by the county or municipality; however, all highways and portions thereof so improved by the county or municipality shall
thereafter be maintained by the Mississippi Transportation Department. Before any highway or portion thereof is returned to the Transportation Commission under this section, the county or municipality having jurisdiction thereof shall remove or cause to be removed by July 1, 1991, all right-of-way encroachments along the entire length of the highway or portion thereof which are not permitted by Transportation Commission and Transportation Department policies and rules and regulations adopted pursuant to state and federal law. Any such encroachments may be allowed to remain only by permits issued by the Mississippi Transportation Department in the manner and subject to the same conditions for the issuance of permits for similar encroachments on other highways on the state highway system. If traffic counts indicate that any highway or portions thereof placed under the jurisdiction of the Transportation Commission under the provisions of this section no longer form a substantial part of the state highway system, the Transportation Commission may request the Legislature to remove such highways or portions thereof from the state highway system and return said roads for maintenance to the county or municipality in which they are located, as provided in subsection (2) of this section. The highways which the Transportation Department is required to continue to maintain by virtue of the provisions of this section shall be in addition to the total mileage limitation of eight thousand six hundred (8,600) miles provided in Section 65-3-3.

(2) Notwithstanding any other provisions of this section to the contrary, the following highways or portions of highways shall be on the designated state highway system and shall be under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance:

(a) Those highways or portions of highways located within counties or municipalities that before July 1, 2003, were on the designated state highway system and under the jurisdiction
of the Mississippi Transportation Commission for construction and maintenance but which were relocated, replaced or bypassed by the Mississippi Department of Transportation in construction of the four-lane highway program under Section 65-3-97; and

(b) Those highways or portions of highways located within counties or municipalities that from and after July 1, 2003, are on the designated state highway system and under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance but which are relocated, replaced or bypassed by the Mississippi Department of Transportation in construction of the four-lane highway program under Section 65-3-97.

(3) The Mississippi Transportation Commission shall, no later than October 1, 1981, and October 1 each year thereafter, furnish the Transportation Committee of the House of Representatives and the Highways and Transportation Committee of the Senate a recommendation for deletion of those highways or sections of highways which should be removed from the system.

SECTION 2. Section 65-1-75, Mississippi Code of 1972, is amended as follows:

65-1-75. (1) The Mississippi Transportation Commission is authorized and empowered to have the Transportation Department locate, construct, reconstruct and maintain any designated state highway under its jurisdiction to, through, across or around any municipality in the state, regardless of the width of the street between curbs; and in so locating it is fully empowered to follow the route of the existing street or to depart therefrom, as in its discretion it deems advisable, and to obtain and pay for the necessary rights-of-way, as provided in Section 65-1-47. The municipality in which such construction is to be undertaken is likewise authorized to acquire rights-of-way on any such streets or on any newly located routes, either by purchase, gift or condemnation. Such rights-of-way may be acquired by either the
municipality or the Transportation Department, subject to the approval of the commission, and the cost thereof may be borne by either or both as may be mutually agreed upon. In any event such municipality may be required to save the commission and department harmless from any claims for damages arising from the construction of the highway through such municipality, including claims for rights-of-way, change of grade line, interference with public structures, and any and all damages so arising. Municipalities may secure additional improvements by payment of the additional cost of same. The commission may require such municipality to cause to be laid all water, sewer, gas or other pipelines or conduits, together with all necessary house or lot connections or services, to the curb line of such road or street to be constructed, and the commission is authorized to refuse to have the department lay such pipelines or conduits beneath such roads or streets until the municipality has laid same or entered into an agreement to reimburse the commission or department for the expense thereby incurred.

(2) All construction of state highways in or through municipalities, where done at the cost and expense of the state, whether heretofore or hereafter, shall be maintained in the same manner and to the same extent as is construction on state highways outside the limits of municipalities to the end that investment of the state in such highway so constructed may be preserved and maintained; and all reasonable rules and regulations with reference to the preservation and maintenance of such highways constructed at state expense, whether within or without municipal limits, may be promulgated by the commission, except that it shall have no power to promulgate police regulations contrary to existing law. On any municipal streets or parts or sections thereof taken over for regular maintenance and maintained by the department as a part of the state highway system, the municipality shall not be liable for negligence occasioned by the maintenance.
or repair of such streets thus apportioned to and of such width as is maintained by the department. The municipality shall have full control and responsibility beyond the curb lines of any designated highway or street, whether heretofore or hereafter so designated, (except the interstate system) located within its present or future expanded municipal corporate limits, regardless of the ownership of the right-of-way, including, but not limited to, the construction and maintenance of sidewalks, grass mowing and drainage systems; however, the department may utilize the right-of-way purchased by the commission without any additional cost or permission.

The municipality shall not allow any encroachments, signs or billboards to be erected or to remain on state-owned rights-of-way on any designated highway within its corporate limits without the consent of the commission. The municipality, at its own expense, shall provide street illumination and shall clean all streets, including storm sewer inlets and catch basins. The commission may enter into an agreement with the municipality or with a private entity to sweep and clean the designated highways within or without the corporate limits. The commission may, at state expense, provide illumination and may clean all interstate highways within the corporate limits of any municipality. The right of the municipality to grant franchises over, beneath and upon such streets is specifically retained, but the municipality shall require every grantee of a franchise to restore, repair and replace to its original condition any portion of any such street damaged or injured by it; however, permission to open the surface of any municipal street maintained by the department must be obtained from both the commission and the municipality concerned before any such opening is made. Each municipality shall retain full police power over its streets, particularly as to regulating and enforcing traffic and parking restrictions on such streets, but any traffic control and parking regulations repugnant to state
law shall be null and void. The commission shall have the
department erect, control and maintain all highway route markers
and directional signs on such streets at state expense. The
commission, at state expense, shall have the department install,
operate, maintain, control, and have full jurisdiction over, all
traffic control devices, including, but not limited to, signals,
signs, striping and lane markings on state highway streets in
municipalities having a population of twenty thousand (20,000) or
less according to the current United States census; but
municipalities over twenty thousand (20,000) population according
to such census shall install, operate, maintain and control such
devices at their own expense, subject to approval of the executive
director regarding operations, method of installation and type
only. Municipalities having a population of five thousand (5,000)
or more but less than twenty thousand (20,000) according to the
most recent federal census shall only be responsible for
electrical operating costs; and all other costs for the
installation, operation and maintenance of traffic control
devices, including the changing of signal bulbs in traffic signal
lights, shall be the responsibility of the Transportation
Department. The commission may purchase at state expense and
install traffic control devices in municipalities over twenty
thousand (20,000) population and donate them to the municipalities
for operation and maintenance whenever it appears to the
commission that, in the interest of safety or convenience of the
motoring public, any of the devices should be upgraded, replaced
or removed. Any revenue from parking meters on any such streets
shall be controlled by and belong to the municipality.

(3) The maintenance of all streets within the limits of any
municipality in this state, regardless of size, which are
presently being regularly maintained, in whole or in part, by the
department at state expense as a part or parts of any designated
state highway shall be continued. Whenever any state highway runs
into or through the corporate limits of any municipality, the
corporate limits of any municipality, the
municipal street or the street utilized and marked as a part of
any such state highway may be a part of the state highway system
and may be maintained by the department; however, such route
through any municipality shall be selected by the commission by
orders spread on its minutes describing all such routes, and such
route or routes may be changed, relocated or abandoned by the
commission from time to time, all under the provisions, terms and
conditions herein provided, but the commission shall have the
department maintain only one (1) route of any highway through a
municipality. Upon relocation of such state highway or
abandonment thereof, the municipal street formerly used as a state
highway shall thereby return to the jurisdiction of, and
maintenance by, the municipality.

(4) Notwithstanding any other provisions of this section to
the contrary, the following highways or portions of highways shall
be on the designated state highway system and shall be under the
jurisdiction of the Mississippi Transportation Commission for
construction and maintenance:

(a) Those highways or portions of highways located
within municipalities that before July 1, 2002, were on the
designated state highway system and under the jurisdiction of the
Mississippi Transportation Commission for construction and
maintenance but which were relocated, replaced or bypassed by the
Mississippi Department of Transportation in construction of the
four-lane highway program under Section 65-3-97; and

(b) Those highways or portions of highways located
within municipalities that from and after July 1, 2002, are on the
designated state highway system and under the jurisdiction of the
Mississippi Transportation Commission for construction and
maintenance but which are relocated, replaced or bypassed by the
Mississippi Department of Transportation in construction of the
four-lane highway program under Section 65-3-97.
SECTION 3. This act shall take effect and be in force from and after July 1, 2003.